Judges & Doctors, Listen

A recent SC judgment shows why Indian medical boards must be made aware of scientific evidence on the impact of forcing women to continue an unwanted pregnancy

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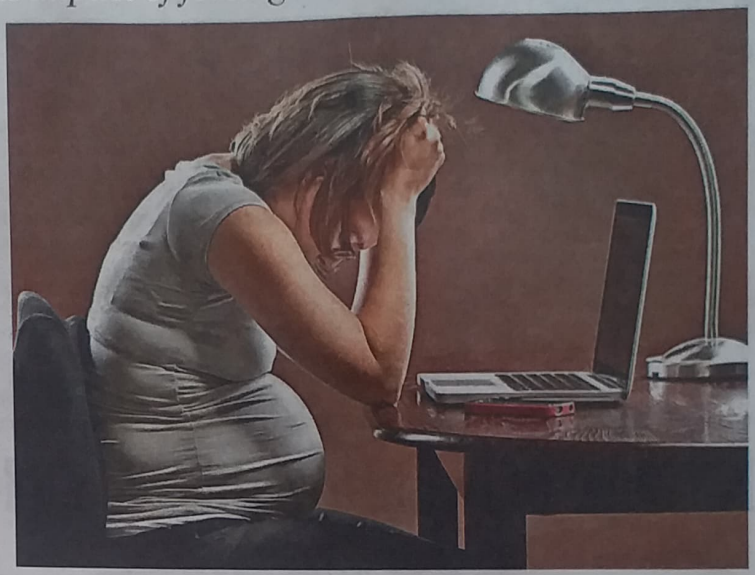

The Supreme Court's recent denial of abortion to a woman undergoing mental health treatment should be a wake-up call about the continued neglect of mental health in India. The ease with which women and girls are advised to continue unwanted pregnancies, deliver babies and then send them for adoption instead of offering abortion has been an irrational practice continued by medical boards and courts.

The social, economic, psychological and physical consequences of continuing an unwanted pregnancy are not taken into account by either medical boards or courts.

The lack of understanding of mental health consequences of an unwanted pregnancy is stark in most cases. Is there a lack of evidence? No. There is compelling evidence on mental health consequences of forcing women and girls to continue an unwanted pregnancy.

This is true for all women, not just rape survivors. Research shows correlation between unwanted pregnancies and mental health effects, including postpartum depression, increased risk of depression in third trimester, and psychosocial problems. Further, there is evidence that women denied abortion suffer anxiety, stress, depression and other physical health problems.

Medical Boards' Blindspot

Every time a girl or woman is referred to the district/state medical board, their first advice for the abortion-seeker is to consider going full-term and give the baby up for adoption. This unscientific route by medical boards is vexing. The state's "generosity" to provide a range of healthcare, including cost of health services, support for the delivery, admission to hospitals and support procedures for adoption, including shelter, seems far stretched.

Such mindless support is oblivious to the impact such forced pregnancy has on the mental health of the pregnant individual. Medical boards seem oblivious that women and girls navigate several trepidations such as families, friends and their value system, to arrive at the decision to seek abortion.

In another case of a 10-year-old (2018), the medical fraternity and courts took the position that terminating a (24-week) late pregnancy was *riskier* than a full-term *delivery* for a child suffering from a *congenital heart condition*. They did not consider evidence about risks of pregnancy to term in children under 18 due to an under-developed uterus, narrow pelvic bones, cervix, and birth canal, and the increased risk of serious obstructed labour in a vaginal delivery, which could lead to maternal death. There was no thought given to the lifelong trauma inflicted on her mind and body.

The overriding concern is for the foetus and not the pregnant individual's mind and body. On one hand, women with disabilities are denied reproductive rights through forced sterilisation and forced hysterectomies, while on the other hand, women are forced to continue pregnancy resulting in psychosocial disabilities.

Between Law & Practice

The Mental Healthcare Law, 2017 adopts a rights-based approach and asserts the capacity of people with mental illness to take all decisions related to their healthcare. This was violated in many ways in the recent case of the adult woman denied abortion.

First, there was no acknowledgement of the adverse effect of forcing her to continue the pregnancy. Second, there was a prescription to change her medication to prevent adverse effects on the foetus. Third, she was to be "counselled" repeatedly to continue the pregnancy, thus making a mockery of what "counselling" is.

Foetal injections are routine for late abortions in case of foetal anomaly – it is part of the health ministry's guidelines. Selective use of these guidelines for foetal anomalies indicates the deep-seated ableism of the medical profession. The different gestational limit for foetal anomaly in the Medical Termination of Pregnancy (MTP) Act is itself discriminatory, as it reinforces stigma and negative attitudes towards disabilities. If a late abortion is safe in case of foetal anomaly, then it should be safe for any other unwanted pregnancy.

Children with disabilities are deemed "unwanted" by society and women with disabilities considered unfit to become mothers. Historically, people with disabilities, particularly women and girls with disabilities who can become pregnant, have been targeted by eugenics policies that force or coerce them not to reproduce – denied bodily, sexual and reproductive autonomy and prevented from accessing the information, education and means to exercise sexual and reproductive rights.

Paternalistic Medical Model

Women seeking abortion are routinely admonished for coming late ("what were you doing till now?"), not using contraception and being "irresponsible". India's medical profession has not only failed to keep up with scientific medical evidence but continues to operate on a paternalistic medical model.

This has limited women and girls' access to abortion services and led to a denial of those services. There is urgent need to embed patients' rights and ethics into the training of medical professionals so they address patient autonomy and decision-making. There is also an urgent need to expose medical practitioners to international standards for late abortions and equip them with techniques for it, as prescribed by WHO and experts.

It is therefore critical to demand that doctors appointed to these boards are trained on procedures related to late abortions, and are made aware of scientific evidence on the impact of forcing a person to continue an unwanted pregnancy. Medical professionals' education and training needs to include understanding the concept of reproductive rights and agency of an individual to decide what suits best. Forced pregnancy and motherhood should be considered a form of cruel and degrading treatment, and rejected.

The writers are policy experts working on issues of gender, violence and health